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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/064,682	04/22/1998	JACOB STEN PETERSEN	273802002200	6434
25226	7590	08/19/2004	EXAMINER	
MORRISON & FOERSTER LLP			SWARTZ, RODNEY P	
755 PAGE MILL RD			ART UNIT	PAPER NUMBER
PALO ALTO, CA 94304-1018			1645	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/064,682

Applicant(s)

PETERSEN, JACOB STEN

Examiner

Rodney P. Swartz, Ph.D.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12May2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-3 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6-11 and 15-18 is/are allowed.
- 6) ☒ Claim(s) 12-14, 19, 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12May2004 has been entered.

Claims 5 and 21-26 have been canceled. Claims 1 and 13 have been amended.

2. Claims 1-3 and 6-20 are pending and under consideration.

Rejections Moot/Withdrawn

3. The rejection of claim 5 under 35 U.S.C. 103(a) as being unpatentable over JP3109328 in view of Elson (*Current Topics in Microbiology*, 146:29-33, 1989) is moot in light of the cancellation of the claim.

4. The rejection of claims 1-3, 6-11, and 15-18 under 35 U.S.C. 103(a) as being unpatentable over JP3109328 in view of Elson (*Current Topics in Microbiology*, 146:29-33, 1989) is withdrawn in light of the amendments of the claims and applicant's arguments.

Rejections Maintained

5. The rejection of claims 12-14, 19, and 20 under 35 U.S.C. 103(a) as being unpatentable over JP3109328 in view of Elson (*Current Topics in Microbiology*, 146:29-33, 1989) is maintained for reasons of record.

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Applicant argues that the amendment of claims 1 and 13 obviate the rejection by now reciting "wherein the inducing agent is the target antigen".

The examiner has considered applicant's argument, but does not find it persuasive for the rejected claims 12-14, 19, and 20.

Claims 12-14 are drawn to a method of inducing tolerance to an allergen or mucosal antigen comprising administering a composition comprising an effective amount of a mucosal binding component in an unconjugated form. Because there is only the recitation of mucosal binding component in the composition, there is no requirement that the allergen also be in the composition. Thus, the cited reference still reads on the claims.

Claims 19 and 20 are drawn to a method of decreasing risk of rejection comprising administration to a recipient "an inducing antigen" and a mucosal binding component. Because there is only the recitation of an unidentified "inducing antigen" along with the mucosal binding component in the composition, there is no requirement that the donor cells be in the composition. Thus, the cited reference still reads on the claims.

Conclusion

6. Claims 12-14, 19, and 20 are rejected. Claims 1-3, 6-11, and 15-18 are allowable.

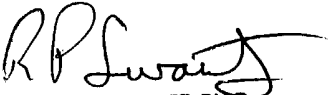
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.

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If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER
Art Unit 1645

August 17, 2004